

***United States Court of Appeals
for the Second Circuit***



APPENDIX

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75-2007

**United States Court of Appeals
FOR THE SECOND CIRCUIT**

Docket No. 75-2007

WILLIAM BREWINGTON,

Appellant,

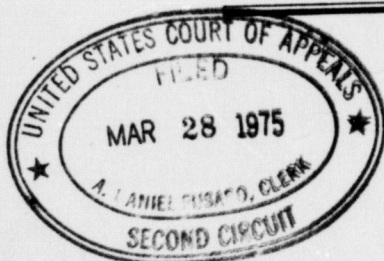
—against—

UNITED STATES OF AMERICA,

Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

GOVERNMENT'S APPENDIX



DAVID G. TRAGER,
*United States Attorney,
Eastern District of New York.*

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

- against -

73-CR-303

EDDIE LONG and
WILLIE BREWINGTON,

Defendants.

United States Courthouse
Brooklyn, New York

June 25, 1973
10:00 o'clock A.M.

Before:

HONORABLE ORRIN G. JUDD,
U. S. D. J.

SHELDON SILVERMAN
COURT REPORTER

A p p e a r a n c e s :

ROBERT A. MORSE, ESQ.,
United States Attorney for the
Eastern District of New York

BY: PAUL LAZARUS, ESQ.,
Assistant U.S. Attorney

JEFFREY C. HOFFMAN, ESQ.,
Attorney for the defendants.

* * * * *

1
2 THE COURT: We've had a plea by Mr.
3 Farmer; a guilty verdict against Miss Perry.

4 MR. LAZARUS: She pled after she lost the
5 suppression motion. We were picking the jury .

6 THE COURT: Mr. Hoffman?

7 MR. HOFFMAN: Both Mr. Brewington and
8 Mr. Long are offering to withdraw their
9 previously entered "not guilty" pleas and enter
10 pleas of guilty to the conspiracy count in the
11 indictment, which is, I believe, the second
12 count in the indictment, in the superseding
13 indictment.

14 THE COURT: Yes. That charged a violation
15 of Section 846.

16 Let us proceed with the Rule 11 questions
17 then.

18 First, Eddie Long. You're indicted
19 under the name of Eddie Long; is that your
20 right name?

21 DEFENDANT LONG: Yes.

22 THE COURT: How old are you?

23 DEFENDANT LONG: 45.

24 THE COURT: How long did you go through
25 school?

1
2 DEFENDANT LONG: Second grade.

3 THE COURT: Second?

4 DEFENDANT LONG: Yes.

5 THE COURT: Can you read and write?

6 DEFENDANT LONG: Very little.

7 THE COURT: Have you been earning a
8 living?

9 DEFENDANT LONG: Yes.

10 THE COURT: Can you understand enough to
11 know what's involved in this case?

12 DEFENDANT LONG: Yes.

13 THE COURT: Have you talked with your
14 lawyer about it?

15 DEFENDANT LONG: Yes.

16 THE COURT: Are you satisfied that
17 Mr. Hoffman is doing his best to represent you?

18 DEFENDANT LONG: Yes.

19 THE COURT: Have you ever been under the
20 care of a doctor or psychiatrist recently?

21 DEFENDANT LONG: No.

22 THE COURT: Have you ever been hospitalized
23 or treated for any narcotic addiction?

24 DEFENDANT LONG: No.

25 THE COURT: Are you under any medication

1
2 or ailment today that interferes with your
3 making up your mind on an important matter?

4 DEFENDANT LONG: No.

5 THE COURT: The indictment charged that
6 you and the other three defendants conspired
7 to knowingly and intentionally possess 899
8 grams of cocaine with intent to distribute.

9 Have you discussed the indictment with
10 Mr. Hoffman?

11 DEFENDANT LONG: Yes.

12 THE COURT: Is it all right for him to
13 proceed without reading every word of it?

14 MR. HOFFMAN: Yes.

15 THE COURT: Now, in offering to plead
16 guilty, are you acting of your own free will?

17 DEFENDANT LONG: Yes.

18 THE COURT: You know if you don't plead
19 guilty, you're entitled to a trial by a jury
20 or by the Government's consent without. The
21 jury will have to prove your guilt beyond a
22 reasonable doubt.

23 You have the right of cross examination
24 of witnesses and bringing in witnesses on your
25 own behalf to testify for you and if you ran out

1
2 of money, to pay counsel, the Government will --
3 the Court will have to appoint counsel. The
4 Government will have to pay for it.

5 You'd start with the presumption that
6 you're innocent. You know you have these rights?

7 DEFENDANT LONG: Yes.

8 THE COURT: While I read something about
9 your activities during the hearing on Miss
10 Perry, I don't know whether a jury would find
11 you guilty or not. There's always a chance.

12 The penalty for violation of Section 846
13 is a term of imprisonment of not more than 15
14 years; a fine of not more than \$25,000 or both.

15 A special parole term of at least 3
16 years, in addition, if a term of imprisonment
17 is imposed.

18 Is there any claim this is a second
19 offender?

20 MR. LAZARUS: No, your Honor.

21 THE COURT: There has been a promise, I
22 gather, Mr. Lazarus, to dismiss the first count
23 of the sentence on the second count; is that
24 right?

25 MR. LAZARUS: That's correct, as well

1
2 to dismiss the original indictment.

3 THE COURT: Has there been any other promise,
4 Mr. Hoffman?

5 MR. HOFFMAN: No, your Honor.

6 THE COURT: Mr. Long, was there any promise
7 made to induce you to plead guilty?

8 DEFENDANT LONG: No.

9 THE COURT: Or any threats?

10 DEFENDANT LONG: No.

11 THE COURT: I don't regard narcotic
12 sales by non-addicts as a light offense. My
13 practice, almost uniformly, has been to impose
14 a substantial jail sentence.

15 Has there been any prediction or comments
16 as to what my sentence will be?

17 DEFENDANT LONG: No, sir.

18 THE COURT: Are you pleading guilty because
19 you did, in fact, commit the offense?

20 THE DEFENDANT LONG: Yes.

21 THE COURT: Tell me just what you did,
22 because I have to know enough facts to be
23 satisfied that I'm justified in accepting
24 your plea.

25 DEFENDANT LONG: I was working for this

1
2 lady, Sharon.

3 MR. HOFFMAN: Sharon Perry.

4 THE COURT: Yes.

5 DEFENDANT LONG: We have a plumbing and
6 heating business. We've been working in this
7 home for something like two or three years off
8 and on.

9 Then, her husband or friends or whatever,
10 got arrested and --

11 THE COURT: That's Brown?

12 DEFENDANT LONG: Yes.

13 Then she, every day, she would ask me
14 something about introducing her to somebody
15 that might be able to help her. This went on
16 for quite some time.

17 So, I said Okay, I'll agree to introduce
18 her to somebody who might be introduced to
19 help her. This is how I got involved in it.

20 THE COURT: First to help her what?

21 DEFENDANT LONG: She wanted to meet
22 somebody with the intentions of buying some
23 narcotics. This is what it was.

24 THE COURT: Was it cocaine?

25 DEFENDANT LONG: This, I don't know.

1
2 THE COURT: What did you have -- you
3 introduced her to somebody? Were you there
4 when a sale was made?

5 DEFENDANT LONG: No, sir.

6 THE COURT: Did you know she was going
7 to buy some narcotics?

8 DEFENDANT LONG: To be honest, I
9 didn't know whether she was going to get
10 narcotics then or not.

11 THE COURT: But you knew that was her plan?

12 DEFENDANT LONG: Yes.

13 MR. HOFFMAN: Explain to the Court what
14 happened.

15 DEFENDANT LONG: All right.

16 I introduced her and I went on home back
17 to Washington.

18 THE COURT: Who did you introduce her to?

19 DEFENDANT LONG: Mr. Brewington.

20 THE COURT: Did you talk with Mr.
21 Brewington about helping her get narcotics?

22 DEFENDANT LONG : No.

23 THE COURT: You just introduced her?

24 DEFENDANT LONG: We entered into an
25 introduction.

1 THE COURT: Did you know the purpose was
2 to get narcotics -- that's what you've said.
3

4 DEFENDANT LONG: Yes.

5 THE COURT: Mr. Lazarus, are there more
6 facts I should know in connection with this?

7 MR. LAZARUS: There were two trips made
8 to New York for the purpose of Miss Perry
9 obtaining drugs.

10 Mr. Long accompanied Miss Perry on both
11 of these trips as your Honor is aware.

12 On the first trip, no drugs were obtained.

13 On the second trip, after the arrangements
14 had been made, Mr. Long went back to Washington
15 separately from Miss Perry and Mr. Farmer.

16 THE COURT: Is that right?

17 DEFENDANT LONG: Yes.

18 THE COURT: Mr. Hoffman, is there any
19 reason why the plea should not be accepted?

20 MR. HOFFMAN: None.

21 THE COURT: I find the plea is made with
22 knowledge of the defendant's rights and of the
23 consequences of the plea; that it's voluntary,
24 a basis in fact for all the elements of the
25 crime.

I'll accept the plea. Since this does

1
2 involve a probability of a substantial prison
3 sentence, I think we should have a pre-sentence
4 report.

5 What is Mr. Long's custody now?

6 MR. HOFFMAN: Mr. Long is on bail. There
7 may be somewhat of a problem in terms of
8 probation's report. When I say problem,
9 geographically, he was from Washington. He's
10 never been arrested before. All of his contacts,
11 which are his own, are in Washington.

12 In terms of the probation department,
13 they may want to work through the Washington
14 Probation Department in terms of interviewing
15 various people that Mr. Long knows.

16 THE COURT: It takes long enough to get
17 it from here.

18 MR. HOFFMAN: That's why I'm bringing it
19 up.

20 THE COURT: It's about an 8-week period
21 between now and sentence, which means sentence
22 after Labor Day when I get back from vacation.

23 What do you say about custody?

24 MR. LAZARUS:- Mr. Long is currently on
25 bail. He's made all required court appearances.

1
2 We have no objection to continuing his
3 bail status.

4 THE COURT: You'll be continued on
5 present personal recognizance bond.

6 MR. HOFFMAN: \$3,000 bond.

7 MR. LAZARUS: \$3,000 cash, \$30,000
8 bond.

9 THE COURT: Mr. Long, I think I mentioned
10 it before. I mentioned it, do you have any
11 objection to Mr. Hoffman representing you?

12 DEFENDANT LONG: No objection.

13 THE COURT: Mr. Brewington?

14 DEFENDANT BREWINGTON: Yes?

15 THE COURT: How old are you?

16 DEFENDANT BREWINGTON: 44.

17 THE COURT: How far did you go through
18 school?

19 DEFENDANT BREWINGTON: 3rd Grade.

20 THE COURT: Can you read and write?

21 DEFENDANT BREWINGTON: No.

22 THE COURT: Has somebody read the
23 indictment to you?

24 DEFENDANT BREWINGTON: Yes.

25 THE COURT: Have you been earning a
living for a number of years?

1
2 DEFENDANT BREWINGTON : Yes.

3 THE COURT: Do you think you understand
4 what your problem is if you're able to talk
5 sensibly with Mr. Hoffman about it?

6 DEFENDANT BREWINGTON: Yes.

7 THE COURT: Are you satisfied with him
8 as your lawyer?

9 DEFENDANT BREWINGTON: Yes.

10 THE COURT: You're indicted as Willie
11 Brewington. Is that your right name?

12 DEFENDANT BREWINGTON: Yes.

13 My right name is William.

14 (continued on the next page.)
15
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2
3 THE COURT: But your name is sometimes
4 known as Willie?

5 DEFENDANT BREWINGTON: Yes.

6 THE COURT: Now, you've heard what I
7 said about the indictment. You're listed as
8 part of the same conspiracy; you understand
9 that?

10 DEFENDANT BREWINGTON: Yes.

11 THE COURT: Do you want me to read it
12 or do you understand enough about it?

13 DEFENDANT BREWINGTON: I understand
14 it.

15 THE COURT: In your offer to plead guilty,
16 are you acting of your own free will?

17 DEFENDANT BREWINGTON: Yes.

18 THE COURT: Again, you have a right to
19 go to trial if you want and as soon as I get
20 the other cases out of the way, I would proceed
21 or would have proceeded when Miss Perry was on
22 trial.

23 At that time, the Government will have
24 to prove your guilt beyond a reasonable doubt
25 starting out with the presumption that you're
innocent and did nothing wrong and you've got

1
2 a right to counsel, to cross examine the Government's
3 witnesses, and to bring in your own witnesses,
4 if you want. Do you understand all that?

5 DEFENDANT BREWINGTON: Yes, sir.

6 THE COURT: If you plead guilty, you
7 can't change your mind and you'll get treated
8 just as if you've been found guilty.

9 DEFENDANT BREWINGTON: Yes, sir.

10 THE COURT: Again, Mr. Lazarus, there's
11 been a promise to dismiss count one and the prior
12 indictment; is that correct?

13 MR. LAZARUS: Yes, and an additional
14 promise. The additional promise is the Government
15 will recommend to your Honor a specific term as
16 to what the sentence should be with the under-
17 standing that it is in no way binding upon the
18 Court. We will make our recommendation on that.

19 THE COURT: You'd better tell me now.

20 MR. LAZARUS: We're going to recommend
21 a sentence of 6 years, with the understanding
22 that it is in no way binding upon your Honor.

23 THE COURT: I will have to consider
24 what the relationship of the various defendants
25 are.

1
2 It is not beyond the realm of possibility.

3 Mr. Hoffman, do you know of any other
4 promises?

5 MR. HOFFMAN: Only, your Honor, the
6 defendant was convicted on another case arising
7 out of the arrest on this case. I believe
8 that Mr. Lazarus will not object to a motion to
9 have the sentences run concurrently.

10 THE COURT: That is sometimes done in
11 this court.

12 MR. LAZARUS: The defendant Brewington
13 was convicted in the Southern District for
14 narcotics arising out of this arrest on the
15 indictment. We will take no position on whether
16 or not your Honor wishes to impose consecutive.

17 THE COURT: I don't have consecutive.
18 That's narcotics found in his apartment?

19 MR. LAZARUS: Yes, your Honor.

20 THE COURT: Mr. Brewington, you've
21 heard what's been said about promises. Has
22 there been any other promises made to induce
23 you to plead guilty?

24 DEFENDANT BREWINGTON: Only the
25 narcotics found in my apartment.

1
2 MR. HOFFMAN: Any other promise?

3 DEFENDANT BREWINGTON: No.

4 THE COURT: Any threats to make you
5 plead guilty?

6 DEFENDANT BREWINGTON: No.

7 THE COURT: Have you been recently
8 treated by a doctor or psychiatrist?

9 DEFENDANT BREWINGTON: A doctor, yes.

10 THE COURT: What kind of ailment?

11 DEFENDANT BREWINGTON: I had a spinal
12 operation.

13 THE COURT: Does that interfere with
14 your ability to make up your mind today?

15 DEFENDANT BREWINGTON: No.

16 THE COURT: Have you been hospitalized
17 or treated for narcotic addiction?

18 DEFENDANT BREWINGTON: No, sir.

19 THE COURT: Are you under any medication
20 or ailment today that would interfere with
21 your making up your mind on this matter?

22 DEFENDANT BREWINGTON: No.

23 THE COURT: Although the Government has
24 recommended a six-year sentence, do you understand
25 that it's up to me to decide within the limits

1
2 imposed by the Statute?

3 DEFENDANT BREWINGTON: Yes, sir.

4 THE COURT: Are you pleading guilty because
5 you did, in fact, commit the offense; did you
6 supply the narcotics?

7 DEFENDANT BREWINGTON: No, sir.

8 THE COURT: Where did they come from?

9 DEFENDANT BREWINGTON: I really don't
10 know.

11 THE COURT: What did you have to do with
12 it?

13 DEFENDANT BREWINGTON: I couldn't --
14 you could call it conspiring.

15 THE COURT: Did you help Miss Perry get
16 narcotics?

17 DEFENDANT BREWINGTON: I introduced her
18 to somebody.

19 THE COURT: Who?

20 DEFENDANT BREWINGTON: A fellow that I
21 know.

22 THE COURT: Somebody that you know about
23 or don't know about?

24 MR. LAZARUS: Somebody we don't know about.

25 THE COURT: Did you introduce her for

1
2 the purpose of getting some cocaine?

3 DEFENDANT BREWINGTON: Well, she said
4 she wanted to buy something. I introduced
5 her. I don't know what she bought, really.
6 I don't know what she bought.

7 THE COURT: Have you told the Government
8 the best information you can give about who you
9 got the narcotics from or whom you introduced her
10 to?

11 DEFENDANT BREWINGTON: Judge, your Honor,
12 that's kind of -- it's a dangerous thing. I've
13 got a family. I'd rather you try me. I have
14 babies. It's kind of tough.

15 THE COURT: Mr. Lazarus, I gather the
16 Government has attempted to get what cooperation
17 it can heretofore? Does this affect, in any
18 way, your recommendation?

19 MR. LAZARUS: No, your Honor.

20 THE COURT: There's no question in your
21 mind that you did help Miss Perry get narcotics?

22 DEFENDANT BREWINGTON: That's right.

23 THE COURT: Is there any reason why your
24 plea should not be accepted?

25 MR. HOFFMAN: None, your Honor.

1
2 THE COURT: Mr. Brewington, knowing your
3 rights, what you face, do you still want to plead
4 guilty?

5 DEFENDANT BREWINGTON: Yes.

6 THE COURT: I find the plea is made with
7 knowledge of the defendant's rights and of the
8 consequences of the plea, and that's it's
9 voluntary, and there is a basis in fact for all
10 of the elements in the crime.

11 Mr. Lazarus, wouldn't it be just as well
12 to get Mr. Brewington -- where is he?

13 MR. LAZARUS: He's in West Street, but not
14 on these charges. He's made bail in this
15 particular case. He did not make bail in the
16 Southern District.

17 THE COURT: I see .

18 When will he be sentenced in the Southern
19 District?

20 MR. LAZARUS: I believe he was tried
21 there approximately 3 weeks ago.

22 THE COURT: It might be just as well if
23 I adjourn sentence here until after the Southern
24 District sentence, so that I can determine and
25 control whether it's consecutive or concurrent.

1
2 There's no point in duplicating the record from
3 the Southern District, the probation report.

4 MR. LAZARUS: It certainly would be
5 current.

6 MR. HOFFMAN: That was put on for the 24th
7 of July.

8 THE COURT: Suppose I put this down for
9 the 26th of July for sentence.

10 MR. LAZARUS: I will not be here until
11 the following Monday, which is the 30th of
12 July. There is no great necessity for me to
13 be here.

14 THE COURT: I'll arrange for somebody
15 else to know what your recommendation is.

16 MR. LAZARUS: I'll put it in the file.
17 I believe it's on the record as to today.

18 MR. HOFFMAN: 26th of July?

19 THE COURT: 26th of July.

20 MR. LAZARUS: I believe the probation
21 department will, in the Southern District, will
22 have to do some work presently. The offense
23 is not the offense that your Honor will be
24 heard before.

25 THE COURT: I suppose all rules are made

1
2 to have exceptions. There's an exception today
3 in my entertaining a specific recommendation
4 at the time of the plea.

5 Good morning.

6 MR. HOFFMAN: Thank you, your Honor.

7 * * * * *

ONLY COPY AVAILABLE

UNITED STATES DISTRICT COURT
 DISTRICT OF COLUMBIA
 WASHINGTON, D.C.

WILLIE BREWINGTON,

Petitioner

vs.

CITIZEN ACTION

UNITED STATES OF AMERICA,

Respondent

IN RE: WILLIE BREWINGTON, A PRISONER SO VACATED SENTENCE

FOR WRIT OF HABEAS CORPUS

TO THE HONORABLE CLARENCE G. JUDGE, U.S.D.J.:

The petitioner Willie Brewington, in propria persona, does petition this Court pursuant to 28 U.S.C. § 2255, to vacate sentence and set aside judgment of commitment, and in support thereof does aver:

1. That he is in federal custody under sentence of this court in Criminal Number 73-Cr-303, at the United States Penitentiary Atlanta, Georgia; and

2. That the sentence imposed was violative of his Constitutional Rights of Due Process, and contrary to the Provisions of Rule 31, Federal Rules of Criminal Procedure.

Wherefore he PRAYS that this Court, vacate sentence and set aside the Judgment of Commitment.

Willie Brewington
 Willie Brewington, Prisoner No. 110 10.

A 24 ONLY COPY AVAILABLE

UNITED STATES OF AMERICA,

Respondent

vs.

UNITED STATES OF AMERICA,

Respondent

AFFIDAVIT

IN SUPPORT OF MOTION TO VACATE
SENTENCE

STATE OF GEORGIA)

ss

COUNTY OF FULTON)

WILLIE BROWINGTON, who, after being duly sworn under oath,
deposes and says:

That he is the petitioner in the attached motion to vacate
sentence.

That at the proceedings held in this Court in Criminal Case
Number 72-Cr.-100, on June 25, 1973, the Honorable John G.
Judd, United States District Judge acknowledged that a plea
bargain existed, and that although he was not bound by the
recommendations made by the Office of the United States
Attorney of six (6) years imprisonment he would consider
such a recommendation.

That at this proceedings (June 25, 1973), the Court failed
to advise the affiant that could receive, in addition to
the six year sentence a special parole term.

That the imposition of the special parole term of ten (10)
years, in addition to the six (6) year sentence and a fine
of \$20,00, was both contrary to Rule 11, inquiring at the
Plea proceedings, as well as contrary to the acknowledged
plea bargain entered into.

WILLIE BROWINGTON, Affiant

Willie Browington
Willie Browington, Affiant

SWORN TO AND SUBSCRIBED BEFORE ME THIS

24 DAY OF JULY, 1974.

J. M. McCall JUDGE OF COURT.

Notary Public for the State of Georgia

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WILLIE BRIDGEMAN,

Petitioner

vs.

UNITED STATES OF AMERICA,

Respondent

MEMORANDUM OF LAW IN SUPPORT
OF PETITION TO VACATE SENTENCE

TO THE HONORABLE ORRIN G. JUDD, U.S.D.J.:

On June 25, 1974, the petitioner, Willie Bridgeman, appeared before this Court to submit a plea of guilty, after a negotiated plea agreement with the United States Attorney's Office, his Attorney and himself.

Pages 15 through 21 is the extent of the interrogation on Rule 11, had in the proceedings on June 25, 1973, and it falls short of the mandatory minimum requirements of Rule 11.

The correct legal standard to be applied where an accused with counsel pleads guilty is as stated by the Court in Von Moltke vs. Gillis, 332 U.S. at 721, 68 S.Ct. at 322, 92 L.Ed. at 319, 320, where the court reiterates the language of McCarthy vs. United States, 1969, 394 U.S. 459, 89 S.Ct. 1166, 22 L. Ed. 2d., 418, to the effect that because a guilty plea is an admission of all the elements of the formal charge, it cannot be truly voluntary unless the defendant possesses an understanding of the law in relation to the facts. Understanding of the law in relation to the facts is the function of the accused's counsel.

People v. State of New York, 404 U.S. at 262, 30 L. Ed. 2d at 433:

"(I)f a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of inducement or consideration, such promise must be fulfilled."

A guilty plea, if induced by promises or threats which deprive it of the character of a voluntary act, is void. A conviction based upon such a plea is open to collateral attack. People v. State of New York, 404 U.S. at 262, 30 L. Ed. 2d at 433. United States v. Jackson, 390 U.S. 571, 88 S.Ct. 1144, 19 L. Ed. 2d 473, 478.

It was firmly established in this Circuit in the case of Robert Lee vs. United States of America ___ F. 2d ___ (Decided October 14, 1970, Docket No. 34375), that a consequence of a plea of guilty was the ineligibility of parole, therefore, by continuously using this instant case, the failure of the sentencing Court to inform the petitioner directly that one of the consequences of his plea of guilty was a possibility of a 15 year sentence, a special parole term of a minimum of three (3) years, and up to a \$25,000.00 fine, regardless of the "side bargains" made between the government and the defendant.

Wherefore, this instant cause must be remanded, and the sentence vacated, and the judgment of commitment set aside.

William F. McGowan
William F. McGowan, Attorney

CERTIFICATION OF SERVICE BY MAIL

I, the undersigned, hereby certify that I have mailed a copy of the attached Motion to Vacate Sentence, and accompanying affidavits, to the CLERK OF THE UNITED STATES DISTRICT COURT, FOR THE EASTERN DISTRICT OF NEW YORK, BROOKLYN, NEW YORK, by placing it in a properly addressed, postage prepaid envelope, and mailing it Certified Mail, Return Receipt Requested, on this 24 day of June, 1964.

Ed. [Signature]
 WILSON BROWNE, JR., ATTORNEY

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EXHIBIT H X
 JUN 30 1 58 PM '64
 U.S. DISTRICT COURT
 EASTERN DISTRICT OF NEW YORK

AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK } ss

EVELYN COHEN

being duly sworn,

deposes and says that he is employed in the office of the United States Attorney for the Eastern District of New York.

That on the 28th day of March 19 75 he served a copy of the within

Appendix

by placing the same in a properly postpaid franked envelope addressed to:

Phyllis Skloot Bamberger, Esq.

The Legal Aid Society

United States Courthouse

Foley Square

New York, N.Y. 10007

and deponent further says that he sealed the said envelope and placed the same in the mail chute drop for mailing in the United States Court House, ^{225 Cadman Plaza East} ~~Washington Street~~, Borough of Brooklyn, County of Kings, City of New York.

Sworn to before me this

28th

day of

March

19 75

Evelyn Cohen

Isaac B. Cohen
ISAAC B. COHEN
Notary Public, State of New York
No. 24-6683785
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1975